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NOTE ON INTERNATIONAL PROTECTION

(submitted by the High Commissioner)

SUMMARY

A description of developments in 1992 in the field of international protection of refugees is contained in the Report of the United Nations High Commissioner for Refugees to the General Assembly through the Economic and Social Council (Document E/1993/20).

The present Note summarizes in general terms the principal challenges facing international protection today, illusrated through UNHCR operations having significant implications for the Office.

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NOTE ON INTERNATIONAL PROTECTION

I. INTRODUCTION

1. The international response to the plight of refugees -- culminating in a virtually universal consensus that people forced by violence or persecution to flee their countries should receive international protection -- is one of the most remarkable humanitarian achievements of this century. Building on foundations laid by the first High Commissioner for Refugees, Fridtjof Nansen, beginning in 1921, the international community has progressively developed the structure and practice of international protection, elaborating and consolidating a system of legal principles and norms and, most importantly, providing asylum to millions of refugees.

2. The international legal framework for the protection of refugees now has the explicit support of 121 States Parties to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, or both. Many of these States are also parties to the 1969 OAU Convention governing the specific aspects of refugee problems in Africa, or adhere to the principles of the 1984 Cartagena Declaration on Refugees. The vast majority of States confronted with refugee situations observe the fundamental principles of refugee protection in granting asylum to persons in need of protection. Having entrusted to the High Commissioner, under the auspices of the United Nations, the task of ensuring the international protection of refugees, States regularly extend to the Office the cooperation and support that are essential to discharge its functions. The human solidarity thus manifested by Governments is inspired and reinforced by that of the people they represent. Despite the economic and social burdens involved, action to protect and assist refugees still enjoys widespread popular support throughout the world, a support that is also expressed through vigorous and effective action by non-governmental organizations working alongside UNHCR in every region of the world. Although the focus of the present note is on some of the numerous challenges and problems facing international protection today, these considerable accomplishments should also be borne in mind.

3. The international community's response to the problems of refugees must at the same time be viewed against the sombre background of armed conflict and human rights abuses which force people to flee in ever-increasing numbers. Refugee flows are a symptom of failure to prevent, respond to or resolve crises at home, and the presence of well over eighteen million refugees in the world today is an indication of social disruption and personal tragedy on a massive scale. International protection as provided by countries of asylum in cooperation with UNHCR is an effort to compensate for the protection that refugees should have received in their own countries, and its objective is not fulfilled until refugees once again enjoy protection as full-fledged members of a national community.

4. This vital link between protection and solutions is reflected in the basic mandate of UNHCR, which the Statute of the Office defines as providing international protection to refugees and seeking permanent solutions to refugee problems. Among solutions, voluntary repatriation,

when feasible, has the advantage of correcting the original wrong of forced exile by restoring the links between refugees and their country of origin. An even better "solution" to refugee problems would be to prevent them from occurring, by removing or mitigating the underlying causes of the conflicts and human rights abuses that force people to become refugees. Convinced that there will be no end to refugee emergencies until the international community has found ways to deal effectively with the root causes of coerced displacement, the High Commissioner has placed prevention alongside solutions as an integral part of her strategy and has increasingly oriented the Office towards the promotion and support of efforts by the international community to alleviate situations in countries of origin that threaten to create internal displacement and new refugees or that prevent those who have already fled from returning home.

5. The manifold challenges to the international protection of refugees have been described in previous years' Notes on International Protection. Unfortunately, despite progress in securing respect for the rights of refugees -- and towards achieving solutions in many regions -- most of the problems identified in earlier years have persisted and have become even more acute. The changes in the international political landscape since the end of the Cold War permitted the resolution of conflicts in some parts of the world, thus opening up prospects for the voluntary repatriation of millions of refugees. However, they have also unleashed rivalries, antagonisms and nationalist aspirations that have contributed to political instability, intercommunal violence, armed conflicts and violations of human rights that have forced additional millions of people to flee both within and across national borders. Hopes that the new era would bring concerted international action to promote human rights, foster economic development and address other causes of forced migration in a context of international peace and security have not thus far been realized. In addition, economic disruption, global recession, unemployment, disparities of wealth within and among industrialized and developing countries, demographic pressures, environmental degradation and relentless poverty have fuelled migratory flows while complicating efforts to respond to the needs of refugees. The cumulative effect of these developments has been to place even more severe strains on the international system for the protection of refugees and particularly on the institution of asylum.

6. The Note on International Protection submitted to the Executive Committee at its forty-third session (A/AC.96/799) focused on the general themes of asylum, prevention and solutions, and drew upon the report of an internal Working Group on International Protection, which had been convened by the High Commissioner to analyze the major protection challenges facing UNHCR as well as the principles and criteria for the Office's protection activities, and to recommend a strategy for strengthening the international protection of refugees. The Working Group's report, together with the ensuing Executive Committee discussions and General Conclusion on International Protection 1/, have provided guidance for new strategic

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1/ Conclusion No. 68(XLIII), paras. (n) to (u); also issued as A/AC.96/804, para. 21 (n) to (u).

initiatives and operational activities in the field. To follow up the many issues raised in the Working Group's deliberations and the Executive Committee's discussions and conclusions, an ongoing exercise of reflection and planning has been pursued within UNHCR, centred on a series of regional protection seminars involving UNHCR representatives and protection staff and aiming to test and, where appropriate, to develop further or expand upon the Working Group's recommendations in the light of the operational challenges confronting UNHCR in its efforts to ensure the protection of refugees in the field.

7. The present note examines in further detail some of the principal current issues within each of the themes addressed by the Working Group, in the light of its findings and recommendations, the subsequent discussions in regional follow-up meetings and other fora, and above all the practical experience of UNHCR during the past year. It focuses first in some detail on challenges to asylum, where a convergence of the trends described above and measures to control irregular immigration create risks for the institution itself, including problems in ensuring respect for the principle of non-refoulement. The note then discusses efforts to foster the prevention and solution of refugee problems, primarily through activities in the countries of origin of refugees, discussing the Office's involvement in activities for the promotion of human rights and on behalf of the internally displaced, its experience with protection in areas of conflict, and issues relating to voluntary repatriation as well as the alternative durable solutions, local integration or resettlement.

II. ASYLUM

8. Asylum, in the core sense of admission to safety in another country, security against refoulement, and respect for basic human rights, is the heart of international protection. Without asylum, the very survival of the refugee is in jeopardy. The overwhelming majority of States continue to adhere to generous asylum policies, affording refuge to persons in need of protection until a solution can be achieved. Indeed, with the occurrence of new refugee situations, it can be said that more refugees are currently enjoying asylum than ever before. However the sheer numbers of refugees requiring asylum are a daunting challenge to the international community, and it is perhaps not surprising that the institution is under serious pressure and that the Office must contend with threats to asylum on several fronts. The challenges include obtaining access to safety for refugees through admission to a country of asylum and protection against refoulement; and ensuring their security and well-being once they are within countries of asylum.

A. Ensuring refugees' admission to safety in countries of asylum

9. Denial of access to a country of asylum continues to take various forms, including outright rejection at frontiers, interceptions, push-offs, and forcible return of asylum-seekers to persecution or danger. Denial of access to safety in another country can also occur as a result of the application of legal and administrative measures that prevent asylum-seekers from reaching the frontiers of asylum countries, refuse them

admission to procedures, or fail to provide adequate procedural safeguards against the inadvertent or indirect return of refugees to their country of origin or other places where they will not be protected. Whether direct or indirect, such practices violate the most basic principle of international protection.

1. The principle of non-refoulement

10. The principle of non-refoulement is the cornerstone of asylum and of international refugee law. Following from the right to seek and to enjoy in other countries asylum from persecution, as set forth in the Universal Declaration of Human Rights, this principle reflects the concern and commitment of the international community to ensure to those in need of protection the enjoyment of fundamental human rights, including the rights to life, to freedom from torture or cruel, inhuman or degrading treatment or punishment, and to liberty and security of person. These and other rights are threatened when a refugee is forcibly returned to persecution or danger. The principle of non-refoulement was given expression in Article 33 of the 1951 Convention, according to which States are obliged not to take any action to expel or return a refugee "in any manner whatsoever to a place where" his or her life or freedom would be threatened. It has since been consistently reaffirmed as a basic principle of state conduct towards refugees. It would be patently impossible to provide international protection to refugees if States failed to respect this paramount principle of refugee law and of human solidarity.

11. Respect for the principle of non-refoulement requires that asylum-seekers, that is, persons who claim to be refugees, be protected against return to a place where their life or freedom might be threatened until their status as refugees has been reliably ascertained. Every refugee is, initially, also an asylum-seeker; therefore, to protect refugees, asylum-seekers must be treated on the assumption that they may be refugees until their status has been determined. Otherwise, the principle of non-refoulement would not provide effective protection for refugees, because applicants might be rejected at borders or otherwise returned to persecution on the grounds that their claim had not been established. That the principle of non-refoulement applies to refugees irrespective of whether they have been formally recognized as such -- that is, even before a decision can be made on an application for refugee status -- has been specifically acknowledged by the Executive Committee in its conclusion on non-refoulement adopted at its twenty-eighth Session. 2/

2. Direct threats to the principle of non-refoulement

12. Unfortunately this basic tenet of refugee protection has not always been observed in practice. A number of countries, where the admission or presence of certain groups of refugees have been perceived as incompatible with national interests or domestic concerns, have ignored or undermined the principle of non-refoulement. In certain countries, border officials

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2/ Conclusion No. 6(XXVIII), para. (c).

have denied entry to asylum-seekers coming directly from their country of origin, resorting in one country to electrified fences, barbed wire and similar devices. Elsewhere, only asylum-seekers with permission to enter third countries are admitted, and then solely for transit. In some countries, refugees already admitted have been rounded up and forced to return to dangerous conditions in their countries of origin. In other cases, threats and coercion are employed to induce refugees to repatriate.

13. Another threat to international observance of the principle of non-refoulement has been the contention that it is not binding on a State outside its own national territory, so that a Government may return refugees directly to persecution provided they have not yet reached or crossed its borders. This claim is clearly inconsistent with the purpose, and is contrary to the spirit, of the 1951 Convention and its 1967 Protocol, as well as of international refugee law generally. It may be noted that no such territorial limitation applies to the mandate conferred upon the High Commissioner by the international community, through the General Assembly, to provide international protection to refugees.

3. Safeguarding the principle of non-refoulement in the context of measures to control irregular migration

14. Some of the most serious current challenges to asylum are the result of the close association of movements of refugees seeking asylum and irregular migration, and the corresponding difficulty of reconciling the protection of refugees with the interest of States in controlling immigration. As States, particularly in the industrialized world, intensify and coordinate their efforts to curb irregular immigration, there is a danger that the legal and administrative measures adopted, including measures to expedite asylum procedures and to shift the responsibility for considering asylum requests to other countries, may have the unintended result of placing refugees in situations that could ultimately lead to refoulement to their country of origin or other territories where their life or freedom would be threatened. Although the issue has arisen primarily in the developed countries, both the migratory trends involved and the effects of the policies adopted are worldwide. Because of the crucial importance of this issue for the institution of asylum and for the observance of the principle of non-refoulement, this section will examine the implications of these developments in some detail.

15. Movements of people seeking better opportunities or escaping from intolerable conditions occur within the same country as well as across national boundaries and between continents. While refugees leave their country because they have to, because their lives or freedom are threatened and their own Governments will not or cannot protect them, migrants leave for other reasons which in principle do not give rise to a need for international protection. In practice the distinction between a person fleeing persecution and one fleeing desperate poverty, hunger or economic disruption is not always clear: famine may be caused or aggravated by civil war, and deprivation of the means of subsistence may be a form of persecution. International law nonetheless makes a sharp distinction between refugees, who are entitled to international protection, and other

migrants, who are deemed to enjoy the protection of their own Governments, however compelling may be their reasons for leaving home.

16. While unrelenting demographic and economic pressures have spurred increased migration within and between various regions of the world, opportunities for legal immigration have become relatively scarcer. Even in traditional countries of immigration, which continue to maintain substantial quotas for those who meet specified criteria, the numbers of authorized immigrants are far below the numbers seeking admission, and the borders of the majority of industrialized countries are all but closed to newcomers other than refugees. For many would-be migrants who do not qualify for immigrant visas, asylum procedures seem to offer a chance to secure admission and improve their lives in a new land. Attempts by people with no valid claim to international protection to take advantage of asylum procedures has created serious problems for the Governments concerned as well as for bona fide asylum-seekers by clogging procedures for the determination of refugee status and by contributing to both popular and official confusion between refugees and illegal immigrants. A complicating factor, which to a certain extent reinforces this confusion, is secondary movement by refugees dissatisfied with conditions in the country where they had initially sought protection.

17. Given the restrictions on immigration that now prevail in most regions of the world, it is in the interest of refugees that Governments should clearly distinguish people who need protection, because they are directly fleeing violence and persecution, from other migrants. To permit this, the Executive Committee has recognized that asylum-seekers must have access to effective and expeditious asylum procedures and that clear and intentional misuse of asylum procedures should be actively discouraged. 3/ The challenge for the international community is to limit the possibilities for abuse while maintaining safeguards fully adequate to ensure that no refugee is returned to danger. Various measures adopted to prevent unauthorized immigration, such as visa requirements, airport screening, and sanctions imposed on airlines and other group carriers for transporting irregular migrants, need to be administered with sensitivity and flexibility lest they hinder refugees from reaching safety. Similar care is required in reforming and implementing asylum procedures.

18. Given the long delays in some countries between the filing of an application for refugee status and a final decision -- delays which themselves provide an incentive for fraudulent claims -- it is clear that reforms to permit the expeditious determination of asylum applications are needed. One method (already identified in the Executive Committee's Conclusion No. 30(XXXIV) is to devote greater resources, especially sufficient competent personnel, to established procedures so as to reduce backlogs. A number of States have adopted this approach with positive results. However, the methods proposed in the countries most seriously

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3/ See, inter alia, Conclusions No. 68(XLII), para. (g) and No. 65(XLII), paras. (n) and (o).

affected by large numbers of applicants also involve expedited or abbreviated procedures and reduced opportunities for appeal or review.

19. To meet the requirements of international protection and in the interest of the refugee requesting asylum, a careful and sympathetic examination of the claim by a qualified, knowledgeable and impartial decision-maker is of critical importance, since an erroneous decision leading to the refugee's forcible return to the country of origin may have tragic consequences. For the same reasons, the opportunity for an independent review of a negative decision is important to reduce the risk of errors, which are known to have occurred -- with irremediable effect -- even in the best of procedures. The Executive Committee's guidance with respect to the basic procedural safeguards that should always be observed, provided in its conclusions on procedures for the determination of refugee status and on manifestly unfounded claims, remains valid. 4/ Proper procedural safeguards are not incompatible with expeditious determination of refugee status, and are essential to avert the risk of refoulement.

20. Another measure employed with increasing frequency by States in response to the proliferation of asylum applications is to apply the concept of "protection elsewhere". Expressed in a variety of formulations, including "first country of asylum" and "safe host country", the effect is to deny an asylum-seeker admission to substantive asylum procedures in a particular State on the ground that he or she already enjoyed, could request or should have requested and, if qualified, would actually be granted, asylum and protection in another country. While both UNHCR and the Executive Committee have recommended that where possible the wishes of the refugee and relevant links to a particular country should be taken into account, 5/ States are not obliged to grant admission or asylum to refugees who have obtained effective protection in another country. In such cases return to that country is therefore permissible, subject to certain conditions, described by the Executive Committee in its conclusion on the irregular movement of refugees and asylum-seekers (Conclusion No. 58(XL)), which are essential to ensure that refugees are not put at risk of refoulement.

21. Several practical problems may arise, however, in applying the concept of "protection elsewhere" to asylum-seekers. One is the difficulty of determining whether another country in which an asylum-seeker can reasonably be expected to request asylum will in fact accept responsibility for examining his or her request and, if appropriate, granting asylum, even on a temporary basis. UNHCR field offices report a number of instances where asylum-seekers have been refused admission and returned to a country through which they had previously passed, only to be summarily sent onwards from there, without an examination of their claim, either to their country of origin or to another, clearly unsafe country. These cases demonstrate the need for decisions to exclude asylum-seekers from access to procedures to be treated as substantive and accompanied by appropriate procedural

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4/ Conclusions No. 8(XXVIII), para. (e) and No. 30(XXXIV).

5/ Conclusion No. 15(XXX), para. (h).

safeguards, including the opportunity to rebut the presumption that a particular country is "safe" with respect to the individual concerned. There is also a need for measures of return to "first" countries of asylum to be implemented in actual practice with due regard to the principle of non-refoulement. Without the prior consent and the cooperation of the country of return, there is a grave risk that an asylum-seeker's claim may not receive a fair hearing there and that a refugee may be left "in orbit" and eventually returned to danger.

22. While recourse to the concept of "protection elsewhere" may be a useful and appropriate means for States, acting in concert, to allocate responsibility among themselves for examining asylum requests, difficulties can arise when asylum-seekers are returned by States which have well-established asylum procedures, legal guarantees and assistance programmes for refugees to States which have little experience in or capacity for determining refugee status or receiving refugees and which lack sufficient material, human and institutional resources to accomplish the tasks thus imposed on them. Unless the countries to which asylum-seekers are returned actually have or are provided with adequate means to discharge their responsibilities, there is a serious risk that persons who are in need of international protection will not receive it, and that the ultimate effect of such measures may be refoulement. It is therefore vitally important that such policies be accompanied by programmes to reinforce protection and assistance in countries of first asylum and former countries of transit that are now called upon to become countries of asylum. Various regional and supra-regional intergovernmental consultations aimed at coordinating and harmonizing national policies, laws and procedures with respect to migration and refugees, in which UNHCR has continued to play an active role, provide fora in which these issues can be discussed and addressed. In such discussions, UNHCR has advocated comprehensive regional approaches which combine the commitment to provide protection to those who require it with clear policies for immigration and development assistance and appropriate information strategies. At the same time the Office is supporting training and institution-building in countries that are newly called upon to receive refugees and asylum-seekers.

23. Whenever refugees -- or asylum-seekers who may be refugees -- are subjected, either directly or indirectly, to rejection, expulsion and return to territories where their life or freedom are threatened, in violation of the principle of non-refoulement as well as of considerations of basic humanity, the response of the international community must be clear and forthright. The principle of non-refoulement is the foundation for protecting the human rights of refugees and must be reaffirmed and defended.

B. Exploring variable approaches to asylum

24. Although the granting of asylum has often been understood to imply the permanent settlement of refugees and, in effect, the durable solution of integration in a new national community, asylum, in the narrow sense of refuge and protection against return to danger, need not be linked to

immigration and assimilation. In large-scale movements of refugees, where voluntary repatriation or resettlement are seen as the most appropriate durable solutions, asylum has frequently been specifically granted on a temporary or provisional basis. Many States thus provide "temporary leave to remain" for persons fleeing conditions that are expected to be transitory. Moreover, the 1951 Convention and the 1967 Protocol indicate, through the "cessation" clauses, that refugee status, and hence asylum, are not necessarily permanent, since the need for international protection may cease because of a fundamental change of circumstances in the country of origin.

25. The need to pursue variable approaches to the resolution of refugee problems, particularly in situations of mass influx, led UNHCR to develop the concept of temporary protection, which the High Commissioner advocated as an element of the Comprehensive Response to the Humanitarian Crisis in the Former Yugoslavia (HCR/IMFY/1992/2). In this context, temporary protection comprised at least admission, protection against refoulement, and respect for fundamental human rights, while awaiting a hoped-for safe return following international efforts to achieve a political solution. It was proposed as a flexible and pragmatic means of affording needed protection to large numbers of people fleeing human rights abuses and armed conflict in their country of origin, who might otherwise have overwhelmed asylum procedures. It has facilitated concerted action by the international community based on a consensus that international protection should be given to those who clearly needed it, without having to determine whether the individuals met a particular legal definition. UNHCR has participated in ongoing consultations with the Governments concerned which have revealed a variety of legal situations but broad agreement on minimum standards of treatment, including the need for improving standards in areas such as education, employment or training, and family reunion, when temporary protection is prolonged beyond an initial minimum period.

26. The granting of temporary protection to persons fleeing human rights abuses and conflict illustrates the value of prima facie group determination as an alternative to individual procedures in situations of large-scale flight. It also gives rise to a number of questions and differing interpretations which are relevant to refugee situations elsewhere, such as the differences between temporary protection in Europe and other forms of asylum on a temporary basis as practiced in other regions; the relationship of temporary protection (and temporary asylum generally) to the provisions of the 1951 Convention and the 1967 Protocol; the duration and content of temporary protection when prospects for a political resolution are not realized; the connection between temporary protection and regular procedures for the determination of refugee status; the termination of temporary protection; and the organization of eventual safe return.

27. When temporary protection has had to be prolonged, a number of States have proceeded to recognize the refugee status of some persons who had been admitted temporarily, while according to others humanitarian status. In addition, legislative proposals in two countries, while providing for a periodic review for all refugees of whether the circumstances that were the basis for their asylum claim still prevail, recognize the individual's

need for stability and membership in a community by authorizing provisional asylum to be transformed into permanent residence after specified period. They thus provide a bridge between the grant of asylum on a temporary basis, as a means to provide safety and to meet the individual's need for protection until a solution is found, and asylum in the broader sense, as a form of integration, to meet the need for solutions in situations where safe return home is not possible.

C. Burden-sharing, international solidarity and asylum

28. The Executive Committee has recognized the fundamental role of international solidarity in encouraging a humanitarian approach to the grant of asylum and international protection generally. 6/ It is of course fully recognized that the burden of providing asylum can be very great and that many less-developed countries need help to sustain the immediate additional costs of caring for refugees. Moreover, as stricter controls are imposed by the developed countries on the admission of asylum-seekers, there is a risk that as an even greater share of the burden of caring for refugees is shifted to the countries immediately adjacent, by land, sea or air, to refugees' countries of origin, the fabric of international protection may be weakened by an apparent diminution of international solidarity. These first asylum countries already shelter the vast majority of the world's refugees; but they are also in many cases the countries least able to muster the material resources needed to maintain them. International burden-sharing of the kind that UNHCR, through its assistance programmes, seeks to provide with the support of donor countries and the cooperation of non-governmental organizations and other international agencies can be extremely important to the international protection of refugees by helping to relieve a part of the material, political and social costs of providing asylum. However, the costs of receiving refugees in most cases go well beyond those covered by UNHCR assistance programmes. It is important to acknowledge both the enormous contribution made, without recompense, by host countries and their need for additional development and rehabilitation assistance to compensate for costs, e.g. to their infrastructure and ecology.

29. Another form of burden-sharing that has helped to bolster asylum has been for other countries to receive refugees both by maintaining open borders for refugees arriving on their own and through special programmes for resettlement or temporary protection of refugees coming from countries of first asylum. Such reception policies can be of benefit to some refugees and lighten the burden on countries of first asylum, making it easier for these countries to continue to receive other refugees escaping from danger.

6/ See, inter alia, Conclusion No. 52(XXXIX).

D. Ensuring the personal security of refugees in asylum countries

30. International protection means first of all securing respect for the fundamental rights of refugees as human beings. This requires their admission to safety and protection against return to danger, but also respect for their basic rights and personal security in countries of asylum. The safety of refugees, particularly refugee women and children, in many countries remains a matter of serious concern. The Sub-Committee on International Protection had extensive discussions on the basis of notes submitted by UNHCR concerning the personal security of refugees; sexual violence against refugee women and girls; and refugee children (See EC/SCP/79). These documents describe incidents where refugees and asylum-seekers, including women and children, have been victims of physical mistreatment including murder, torture, rape and other forms of violence. The security of refugees as well as returnees is of course the direct responsibility of the State where they find themselves, and the Office has sought to alert the authorities concerned whenever instances of physical violence against refugees or asylum-seekers are reported and to assist them to prevent, punish and deter such abuses. The notes submitted the Office suggested measures that Governments and UNHCR might take to enhance the security of refugees, including training activities for officials dealing with refugees in order to disseminate and reinforce relevant protection principles. Direct access to refugees for UNHCR as well as relevant refugee assistance agencies remains of crucial importance to ensure their safety in all regions.

31. The safety of refugees living in camps has in certain cases been seriously affected by their location in remote areas close to the country of origin. Such locations give rise to many problems, including attacks by armed forces or insurgents from the country of origin, banditry and forced recruitment of refugees, including children, into irregular forces. The proliferation of weapons in many areas aggravates security problems. On some occasions refugees, having fled from disturbances in their own country, have found themselves in the midst of a conflict between warring parties in their country of refuge. In several regions hostilities or lawlessness have prevented or seriously hampered the Office from rendering effective protection and assistance to refugees and returnees.

32. In a number of countries intolerance and violence against foreigners, including asylum-seekers and refugees, continue, despite measures taken by the authorities concerned to protect asylum-seekers and to prosecute those responsible for attacks on them. UNHCR supports and participates in increased efforts being made by governmental as well as non-governmental organizations to combat negative attitudes against asylum-seekers and refugees through the promotion of broader understanding throughout national communities of their plight.

E. Asylum as a durable solution: resettlement or local integration

33. While voluntary repatriation is the ideal solution to refugee problems, it must be recognized that for some refugees and in some

circumstances integration in a country of asylum -- either the initial country of asylum or a country of resettlement -- may be the most appropriate and indeed the only possible long-term solution. For cases where the solution of voluntary repatriation appears impossible, the High Commissioner's mandate refers to the alternative solution of "assimilation in new national communities", i.e. local integration or resettlement. This solution is envisaged in various provisions of the 1951 Convention pertaining to economic and social rights and the eventual naturalization of refugees. UNHCR welcomes the opportunities that continue to be offered by States for the local integration or resettlement of refugees. Besides being a possible durable solution for individuals for whom repatriation appears impossible in the foreseeable future, third-country resettlement can also be a crucial protection tool in cases where danger or insecurity persist in the country where the refugee was first admitted. In certain cases it provides a way of saving or restoring the basic dignity of a refugee's life, e.g. through appropriate medical or psychological attention; education and training; or family reunification. In such cases it may or may not also constitute a permanent solution. Experience shows that integration in a new country does not necessarily preclude, and may even facilitate, a productive return home when conditions permit. Finally, burden-sharing through direct admission of refugees and resettlement plays an important role in enhancing protection generally in countries of first asylum.

III. PREVENTION AND SOLUTIONS

34. For the individual who is a potential victim of human rights abuses or armed conflict, as well as for the international community faced with a growing "refugee problem", the ideal policy and the most effective form of protection is prevention, meaning action to address and remedy conditions that could force people to become refugees. Recent events have shown all too clearly the need for earlier and more effective action to prevent potential refugee-generating situations from deteriorating to the point where flight becomes the only option. Current crises involving massive displacement and actual as well as potential refugee flows show a similar pattern in very different circumstances: tensions and insecurity arising from unresolved political, ethnic, sectarian or nationality disputes lead to human rights abuses and the outbreak of violence and finally armed conflicts which force people to flee their homes, and often their countries, in search of safety. Once coerced displacement has occurred it is too late to prevent widespread suffering, and more difficult to provide protection and to achieve a solution.

35. The High Commissioner's mandate includes seeking solutions to the plight of the refugee, and international protection must be provided with this ultimate objective in view. While permanent asylum may in certain cases be the only solution available for an individual or group of refugees, the most desirable, and often the only feasible, solution to most existing refugee problems must be sought in refugees' countries of origin through voluntary repatriation. Voluntary repatriation in safety and dignity is in principle the most satisfactory remedy to forced exile because it involves the resumption by the State of its responsibility for

safeguarding the fundamental rights of its people, including the right of everyone to remain in safety in their own country and the right of refugees to return home. It must be recognized, however, that in certain situations the break between the refugee and the country of origin has been so traumatic that reconciliation in the foreseeable future is impossible.

36. Both preventive measures and the promotion of the solution of voluntary repatriation involve action in and by countries of origin to remove or reduce the factors which force displacement. Since measures that avert displacement and refugee flows may also permit return, many of the activities of UNHCR and others in (potential) countries of origin are relevant both for prevention and for the solution of voluntary repatriation. Prevention and solutions are in fact different aspects or phases of a single process with the same goal, which is to maintain or restore the links between individuals, communities and Government within a country.

37. As UNHCR has become more involved with preventive activities, it has become necessary to dispel possible misunderstandings concerning the relationship between prevention, as understood by the High Commissioner, and asylum. The objective of prevention is not to obstruct escape from danger or from an intolerable situation, but to make flight unnecessary by removing or alleviating the conditions that force people to flee. Defending the right to remain does not in any way negate the right to seek and to enjoy asylum. UNHCR has always insisted that its activities in countries of origin are not incompatible with and must not in any way undermine the institution of asylum or the individual's access to safety. At the same time, the presence of UNHCR in a country of origin in connection with prevention, humanitarian assistance and/or solutions should not be taken to imply that conditions there are safe or that persons fleeing that country are not in need of international protection.

38. Given the vast potential field of action for preventive activities, and the fact that the enterprise of prevention goes far beyond the purely humanitarian sphere, it is obvious that there are limits to what a single humanitarian agency such as UNHCR can undertake, and that there is little that UNHCR can accomplish on its own. The contribution of UNHCR in the field of prevention must be primarily catalytic and collaborative, with respect to both the action of States, whose cooperation is indispensable, and that of other United Nations and international agencies, which have the mandates, expertise and primary responsibility for action in various domains other than the international protection of refugees and the promotion of solutions to refugee problems. UNHCR's role in prevention thus ranges from active participation in early-warning mechanisms and alerting the international community of the need to address specific situations that have the potential to cause refugee problems, through active participation in inter-agency efforts and in the humanitarian aspects of preventive diplomacy, to the assumption of a lead operational role in humanitarian efforts within a particular country or region to provide assistance and protection to people who might otherwise be forced to flee their countries.

39. The Executive Committee and the General Assembly have expressed their support for UNHCR's efforts to explore new options and undertake new protection activities in the areas of prevention and solutions, as well as asylum, consistent with its mandate and in coordination with other United Nations organs. 7/ Among the areas of prevention identified by the Working Group on International Protection and endorsed by the Executive Committee and the General Assembly as appropriate for specific UNHCR initiatives were the promotion of human rights and activities on behalf of the internally displaced. These issues, as well as UNHCR's efforts to provide humanitarian assistance and protection to victims of conflicts, and some specific aspects of voluntary repatriation and the alternative durable solutions, local integration and resettlement, are discussed in the following paragraphs based on the experience of the past year.

A. Promoting respect for human rights

40. As violations of human rights are a major factor in precipitating the flight of refugees, so ensuring respect for human rights is critical both to remove the causes of flight and to enable refugees to repatriate in safety. With the encouragement of the Executive Committee and the General Assembly in its resolution 47/105 (1992), UNHCR has sought to strengthen its cooperation with the human rights bodies of the United Nations with a view to promoting effective responses to human rights problems which are generating, or threaten to generate, flows of refugees and displaced persons, or which impede voluntary return. This has involved the Office's active participation in the Commission on Human Rights and in the World Conference on Human Rights, including regional preparatory conferences. It has also involved sustained cooperation with the United Nations Centre for Human Rights, treaty bodies such as the Committee on the Rights of the Child, working groups on specific issues, and Special Rapporteurs and Experts on specific human rights situations, notably internal displacement.

41. The High Commissioner has underlined in international fora the close link between safeguarding human rights, preventing and resolving refugee problems and protecting refugees, and has emphasized the need to defend the human right of people to remain in peace and safety in their own homes and countries and the corresponding responsibility of States to protect people against forcible displacement and exile. At the forty-ninth session of the Commission on Human Rights and again at the World Conference on Human Rights, the High Commissioner called for comprehensive and integrated approaches linking humanitarian action and protection of human rights with peace-making, peace-keeping and peace-building. UNHCR continues to encourage the strengthening of human rights mechanisms for the protection of the internally displaced and has offered its full cooperation to the Special Representative of the Secretary-General in this respect. At the regional level, UNHCR has promoted inter-agency mechanisms aimed at coordinating research and action to meet the needs of the internally displaced. Such a mechanism has recently been established in one region,

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7/ See Executive Committee Conclusion No. 68(XLIII), paras. (o) to (u); General Assembly resolution 47/105, paras. 9 to 17.

in the form of a standing consultative group comprised of international and intergovernmental organizations, non-governmental organizations, independent experts and a regional human rights institute.

42. At the level of operations in the field, the growing recognition by the international community, and particularly by the United Nations Security Council, of the links between human rights violations, forced displacement and threats to international peace and security has led to the inclusion of human rights monitoring in peace plans and peace-keeping operations sponsored by the United Nations and regional organizations. These operations also typically include the repatriation of refugees, in which UNHCR has a direct responsibility for monitoring the situation of returnees, as well as humanitarian assistance to the internally displaced and other groups among the local population, with which UNHCR may or may not be involved. UNHCR is cooperating actively with these operational human-rights monitoring efforts, and has pointed out the desirability of strengthening the links and coordination among these ad hoc programmes and the regular United Nations human rights machinery.

43. UNHCR's activities in the areas of legal advice, promotion, and training, which have normally been oriented primarily towards questions of asylum and the reception of refugees, have focused increasingly on human rights, the treatment of minority groups and issues of citizenship, thus requiring closer cooperation with human rights bodies of the United Nations and with regional institutions and NGOs. The protection of minorities and the encouragement of greater ethnic, religious and linguistic tolerance between diverse communities within States no doubt represents one of the most serious human rights challenges facing the international community, and is vital for the prevention of refugee flows, as illustrated by a number of current situations. It is part of the task of building or rebuilding democratic institutions which must be accomplished by the peoples concerned and their Governments, and in which the contribution of UNHCR, in association with other international entities, can only be supplementary. The prevention and reduction of statelessness is another priority in the present context of newly independent States and redefined national boundaries and national identities.

B. Protection of the internally displaced

44. The factors that compel internally displaced persons to leave their homes are similar and in many cases identical to those that force refugees to flee their countries. Like refugees, the internally displaced are in need of protection, assistance and a solution to their plight. Frequently they also lack the effective protection of their Government, either because control of a part of its territory is contested or because of discriminatory policies. However since they have not crossed an international boundary and are still within the jurisdiction of their national Government, the internally displaced do not qualify for international protection under international law, nor do they fall within the general mandate of UNHCR. UNHCR's involvement with the internally displaced has most often been in the context of voluntary repatriation programmes where the displaced have been mingled with returning refugees as well as with the local population, and where it has been both practically

and morally untenable to make distinctions as to who should receive humanitarian assistance or protection on the basis of legal mandates derived from prior status rather than current need. In some situations, however, the Office has been called upon to assist the displaced before a significant cross-border refugee flow has occurred.

45. The Working Group considered that it would be appropriate in certain circumstances for UNHCR to accept specific responsibilities for the internally displaced, depending on their protection and assistance needs, and outlined certain baseline criteria, which were described in last year's Note on International Protection. The Executive Committee and the General Assembly last year endorsed UNHCR efforts to undertake activities in favour of the internally displaced, on the basis of specific requests from the Secretary-General or the competent principal organs of the United Nations and with the consent of the concerned State, taking into account the complementarities of mandates and expertise of other relevant organizations. 8/

46. Since UNHCR has recently been presented with new requests for assistance from States faced with acute problems of internal displacement, it has been necessary to refine further the basic operational criteria for involvement in situations of internal displacement, within the baseline criteria identified by the Working Group and the legal mandate conferred upon the Office by General Assembly resolutions. In this connection, a distinction is drawn between two types of situations:

(a) Situations of internal displacement where there is a direct link with UNHCR's activities under its basic mandate to protect refugees and seek solutions to refugee problems, including:

(i) those where internally displaced populations are mingled with groups of returnees or are in areas to which refugees are expected to return; or

(ii) those where the same causes have produced both displacement and refugee flows or there is a significant risk of cross-border movement of some or all of the internally displaced.

In these situations, UNHCR will favourably consider assuming primary responsibility for the internally displaced, assessing in each case the benefits of its involvement in terms of protection and solutions as well as the need for assistance and protection.

(b) Other situations where the link with mandated UNHCR activities is not present or is less direct. In these situations, UNHCR may nevertheless consider involvement to relieve the causes of

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8/ Executive Committee Conclusion No. 68(XLII), para. q; General Assembly resolution 47/105, para. 17.

nevertheless consider involvement to relieve the causes of internal displacement and to contribute to conflict resolution through humanitarian action, but UNHCR activities would normally be supplementary to the humanitarian efforts of other international organizations.

47. In all cases, UNHCR involvement in favour of the internally displaced is dependent on the support of the international community and the provision of sufficient resources for the activities in question.

48. Besides criteria for UNHCR involvement, it is also important to define the nature of UNHCR's activities. The legal bases for UNHCR programmes on behalf of people within their own country are qualitatively different from those governing work on behalf of refugees in countries of asylum. It is nonetheless understood that UNHCR's mandate and expertise lie in the areas of protection and solutions. Wherever UNHCR is called upon to assist non-refugees in a specific situation, whether it assumes primary or supplementary responsibility, its activities must be consistent with this mandate. The particular activities undertaken will vary depending on the situation of the internally displaced persons, the factors that generated displacement, their relations with their Government and/or with de facto local authorities, as well as understandings between UNHCR and the Government. They may include the provision of humanitarian assistance as well as specific protection activities, with a view to the assumption by the authorities of their responsibilities towards the persons in question, including safeguarding human rights and observing the principles of humanitarian law.

49. Within the criteria outlined above, UNHCR has been involved during the past year in a wide range of activities in favour of internally displaced persons, including humanitarian assistance and/or rehabilitation programmes, in countries and areas of refugee return, in favour of the internally displaced together with returning refugees and persons who have remained at home, which help to stabilize communities and permit further voluntary repatriation; personal documentation; assistance and de facto protection in temporary relief centres; and humanitarian assistance and monitoring of the security of the displaced in situations of unrest or conflict that also involved the flight of refugees. (UNHCR protection activities in areas of conflict are discussed in the following section.) In most situations UNHCR has worked in close cooperation with other relevant agencies, often as part of comprehensive inter-agency programmes. As was previously mentioned, UNHCR activities relating to the internally displaced also include collaboration with the Special Representative of the Secretary-General on the Internally Displaced as well as with other relevant human rights entities.

50. Assistance and protection for the internally displaced, like international protection for refugees, require the cooperation of the States directly concerned. As for refugees, UNHCR presence and humanitarian access are indispensable. Where the cooperation or consent of the relevant authorities is forthcoming, the different legal bases for action on behalf of the internally displaced -- in particular the absence of a specific body of principles and norms equivalent to international refugee law -- have not proved to be an obstacle to humanitarian access or to effective action. While the development of international legal principles and norms against forcible

displacement and for the protection of the displaced -- beyond the protection already provided by international human rights and humanitarian law -- is much to be desired, humanitarian access depends not so much on the elaboration of legal norms as on the ability and political will of the international community to persuade States to accept responsibility for the welfare of all the people within their territory, whether they be refugees, returnees, the displaced, or people who have never left home.

C. Protection in situations of conflict

51. Many of the situations in which UNHCR is currently active involve providing assistance and protection in conditions of serious tension or outright conflict. In some cases, refugees who have secured admission to a country of asylum find themselves in areas affected by insecurity, civil war or even by cross-border attacks related to the same conflict that they had fled. In other cases, refugees return to unstable conditions and find themselves engulfed in a resurgence of violence in their home country. In still other situations, UNHCR has been called upon to extend humanitarian assistance and protection to displaced or threatened populations who have not yet crossed an international boundary. A single situation may in fact include refugees, returnees, the displaced, and the affected local population.

52. The Note on the Personal Security of Refugees submitted to the Sub-Committee on International Protection 9/ discusses the protection of refugees in insecure areas in countries of asylum, identifying a number of protection issues resulting from their location close to an ongoing conflict in their country of origin, and underlining the need for UNHCR to have prompt and continuing access to refugees in order to discharge effectively its international protection functions. This section will briefly review certain issues relating to UNHCR's experience in seeking to provide protection to persons caught up in conflict within their own countries, including returnees, the internally displaced and the threatened or besieged local population.

53. Persons within their own countries, whether they have been displaced or not, obviously do not benefit from the mechanisms and instruments of international protection for refugees. In conflict situations, besides their own national law, they should in principle enjoy the protection both of relevant human rights law and of international humanitarian law, subject in the case of human rights law to possible derogations in emergency situations and in the case of humanitarian law to the definition of armed conflict. When called upon to extend protection to non-refugees, UNHCR accordingly relies on these internationally recognized norms. The Office also relies, where possible, on the enforcement by the authorities of the applicable national laws and observance by them of any specific agreements into which they may have entered for the protection of the persons concerned. A serious limitation to the protection available, however, is the unwillingness of some parties to conflicts to respect international obligations towards the victims. In many of the situations in which UNHCR has recently been involved, humanitarian obligations towards civilians have not only been flagrantly

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9/ EC/1993/SCP/CRP.3.

disregarded; civilians have been the deliberate objects of attack and of gross violations of their most fundamental rights, often with the specific objective of forcing them to flee.

54. Humanitarian action alone clearly cannot end conflict or prevent the resultant displacement, particularly where displacement is an objective of warfare and of systematic human rights abuses. The experience of UNHCR staff in the field suggests that humanitarian presence has helped to avert or mitigate some of the worst crimes, in addition to facilitating the delivery of food and other supplies to the victims, helping to avoid even greater displacement and, in some situations, helping to pave the way for possible solutions. One of the key protection tasks that UNHCR staff have been called upon to perform in a situation of armed conflict and massive violations of human rights has been to participate in monitoring the treatment of the affected population, reporting violations of fundamental rights, and intervening with the relevant authorities to request protective action and investigations into specific cases of abuse. In another area affected by civil strife, relief centres operated by UNHCR at the invitation of the Government provide both assistance and a degree of protection to the internally displaced; and in another region affected by sporadic violence in the aftermath of civil war, UNHCR, in coordination with the representative of the Secretary-General, has pursued efforts, including joint missions with the national authorities and the provision of rehabilitation assistance, to arrange for the return of displaced persons to their home areas under guarantees of safety and to monitor the observance of those guarantees, while at the same time facilitating the voluntary repatriation of refugees who had fled the fighting. Recent involvements have demonstrated that UNHCR can usefully contribute its humanitarian expertise alongside that of other humanitarian organizations, particularly the ICRC, in complex emergencies, peace-keeping or peace-building operations, including situations of acute crisis or open conflict. Despite what has been achieved in such situations, however, UNHCR experience also shows that in the absence of a political resolution of a conflict, humanitarian assistance and international presence cannot by themselves provide effective protection to victims nor prevent further displacement and refugee flight.

55. One of the challenges of fulfilling a humanitarian mandate in the midst of emergencies involving armed conflict is to preserve the integrity, impartiality and neutrality of humanitarian action in integrated operations where political and, in some cases, essentially military considerations may tend to dominate. This will require at a minimum that the organizations charged with the humanitarian and human rights components of an operation be included as early as possible in the planning stage and that UNHCR retain the measure of autonomy necessary for the effective delivery of protection. Another important consideration is the appropriate division of labour between UNHCR and other humanitarian or human rights organizations. Human rights bodies or regional organizations may be in the best position to take appropriate action in connection with the monitoring of human rights situations; while the International Committee of the Red Cross has special expertise and a recognized role in the protection of civilian populations in war through international humanitarian law as well as the provision of assistance. UNHCR's activities in areas of armed conflict require close cooperation and coordination with ICRC as well as with human rights bodies

such as the Centre for Human Rights. In practice the magnitude of the humanitarian tasks at hand is such that regular consultation generally results in complementary action and fruitful collaboration.

56. Finally, UNHCR's more frequent involvement in conflict situations in countries of origin of refugees or potential refugees presents the Office with new questions with respect to the security of staff. It is not possible to provide protection for refugees or the internally displaced unless the safety of UNHCR staff is ensured to a reasonable degree. What level of risk is reasonable is a question that is subject to constant re-examination in the light of experience -- tragically including deliberate killing of UNHCR and other humanitarian agency staff -- in areas of conflict and insecurity.

D. Voluntary repatriation

57. The past year has seen the successful conclusion of a large-scale voluntary repatriation, albeit to a tenuous political and security situation, under the auspices of a comprehensive United Nations-sponsored peace plan, and preparations for an even larger return, already begun by refugees returning spontaneously, in the context of another such plan which has yet to be fully implemented. At the same time political developments and the resumption of civil war have drastically slowed one massive repatriation and reversed another, rather smaller one, that had begun just a few months before. In every region voluntary repatriation continues, on a smaller but still significant scale, to some countries, often spontaneously, and frequently despite persistent civil strife, while in others a dialogue with the country of origin and/or peace negotiations are under way, and in still others the fighting or human rights abuses that caused refugees to flee continue unabated. As UNHCR continues to pursue every opportunity to promote voluntary repatriation, the situations in the field demonstrate on the one hand the desirability, feasibility, and necessity, and on the other hand the fragility, difficulty and even elusiveness, of this durable solution to the problems of refugees. Examples on every continent show the importance of comprehensive integrated approaches to resolve the situations that have given rise to refugee flows. Since the underlying causes of the crises which generate refugee flight are a complex mix of factors, including the political and the economic, the action of the international community must equally be multifaceted, not solely humanitarian, and consequently must mobilize other agencies in addition to UNHCR. The regional concerted arrangements under United Nations and/or regional auspices discussed in the 1992 Note on International Protection are becoming a common feature in efforts to promote conditions conducive to both the peaceful resolution of conflicts and the return of refugees. Recent experience, both successful and otherwise, in promoting voluntary repatriation, shows the need for political will, as well as humanitarian good will, to achieve solutions. It also shows that successful voluntary repatriation depends first and above all on the willingness and ability of Governments of countries of origin to accept responsibility for the protection of their people and to do what is necessary to enable those who are refugees to exercise freely their right to return home.

58. Assisting Governments to facilitate the voluntary repatriation of refugees is included in the UNHCR Statute as one of the two facets of the High Commissioner's function of seeking solutions to refugee problems. Normatively, voluntary repatriation is the direct corollary of the principle of non-refoulement: refugees, as persons deserving international protection, must not be returned in any manner whatsoever to territories where their lives or freedom would be threatened; therefore, any return to the country that they fled must be voluntary, so long as the need for international protection continues. Voluntary repatriation also involves the exercise of the right to return to one's country, enshrined in Article 13 of the Universal Declaration of Human Rights.

59. Besides being a basic principle of international refugee law, voluntary repatriation is also a practical technique for effecting the safe and dignified return of refugees once the conditions that forced them to flee or to remain outside their country no longer exist. Many refugees freely choose to return home to situations of precarious stability or even continuing conflict or tension, but which they consider "safe enough", well before the international community could determine that they no longer need international protection. By facilitating such voluntary return -- ensuring, in the process, that the refugees are properly informed of conditions in the areas of return and that the return of each individual is wholly voluntary -- UNHCR and the States concerned can help to foster conditions that will permit return on a larger scale. At the same time, with access and an active presence in the country of origin, UNHCR can monitor the safety and conditions of return. Increasingly the role of the Office is not merely passive assessment of whether conditions are sufficiently safe to encourage return (among refugees assumed to be reluctant), but active involvement, in cooperation with the authorities concerned, to promote a safe environment for returning refugees, many of whom in fact need little encouragement once minimum security and basic subsistence are assured. Efforts to make return safe and viable thus become part of the process of assessing how safe it is, including monitoring the situation of refugees who do not wait for international clearance to exercise their right to return. UNHCR involvement in facilitating the voluntary return of refugees, whether spontaneous or assisted, even to less than optimum conditions, implies no derogation from the principles of non-refoulement or of voluntary repatriation, which apply so long as the need for international protection exists. However UNHCR experience in the field confirms the position of the Working Group that the individual refugee should decide for him or herself when it is time to return home.

60. To ensure that the return of refugees and displaced persons will be durable, it may need to be sustained by peace and confidence-building measures, and integrated into an overall, regional or international scheme of reconciliation, rehabilitation and stabilization. Once repatriation has been successfully completed, and some measure of reintegration attained so that returnees are on a similar footing with the local population, UNHCR's involvement should ideally end with a handover to the relevant agencies or a phasing-out, as appropriate. UNHCR's operational activities in the country of origin of returnees are intended to be a transitional, complementary contribution to the processes of reconciliation, reintegration and rehabilitation, including institution building, which may require ongoing activities by other United Nations and regional organizations, as well as

bilateral support, as appropriate and desired by the Government concerned. However, while it is clear that UNHCR cannot monitor repatriation guarantees and the human rights situation of returnees indefinitely, the duration of UNHCR's presence also depends on whether the specific protection as well as the assistance needs of returnees have been met. As with preventive activities, successful and durable voluntary repatriation would be promoted in many situations by the strengthening of the implementation capacity of international and regional human rights systems.

61. To assist UNHCR in addressing the numerous issues which arise in connection with voluntary repatriation, the Office has prepared a training module on voluntary repatriation in general and is drafting practical guidelines on the protection aspects. The "Information Note on the Development of UNHCR's Guidelines on the Protection Aspects of Voluntary Repatriation" (EC/SCP/80) details the approach taken in these guidelines.

IV. CONCLUSION

62. The events of the past year, including the convergence of trends that strain international solidarity and make the protection of refugees more difficult, demonstrate the need to uphold and strengthen the institution of asylum and the fundamental principle of non-refoulement at the centre of the system for the international protection of refugees. The persistence of several long-standing refugee problems, the continuing increase, despite substantial voluntary repatriation, in the number of persons needing protection, and the proliferation of conflicts that have generated and threaten to generate further displacement and new flows of refugees also confirm the importance of pursuing complementary strategy initiatives, particularly with regard to the prevention and solution of refugee problems in countries of origin. The experience of the past year demonstrates the importance of taking advantage, whenever and wherever possible, of opportunities to address the refugee problem at its source, by promoting efforts to improve conditions in countries of origin and to assist or persuade States to assume their responsibility to respect and ensure the human rights of everyone within their territory or jurisdiction. But it also shows the difficulty of prevention, the fragility of planned solutions and the limits of humanitarian action in the absence of political will or capacity to take prompt and decisive action to deal with grave violations of human rights and threats to international peace and security.

63. The international protection of refugees would be impossible without the cooperation of States, in a spirit of international solidarity and burden-sharing, both in providing asylum to those who need it and in fostering solutions to refugee problems. It is hoped that this note will provide the basis for a frank dialogue within the Executive Committee on the ways in which the Office, concerned States and the international community as a whole can most effectively discharge their responsibilities towards refugees.